

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MAURICE FERRELL,

Petitioner,

v.

CASE NO. 2:09-CV-11122
HONORABLE AVERN COHN

PATRICIA CARUSO,

Respondent.

**ORDER DISMISSING PETITION AS DUPLICATIVE AND DIRECTING THAT
THE FILING FEE AND PLEADINGS BE RE-FILED IN CASE NO. 09-CV-11103**

This is a habeas case under 28 U.S.C. § 2254. Maurice Ferrell ("Petitioner"), a state prisoner presently confined at the Richard A. Handlon Correctional Facility in Ionia, Michigan, challenges his convictions for felony murder, assault with intent to rob, and possession of a firearm during the commission of a felony which were imposed by the Wayne County Circuit Court. Petitioner was sentenced to life imprisonment without the possibility of parole on the murder conviction, a concurrent term of five to ten years imprisonment on the assault conviction, and a consecutive term of two years imprisonment on the felony firearm conviction in 2002.

Petitioner, however, has already filed a habeas action challenging the same convictions and raising the same claims, which is currently pending before another judge in this district. See Ferrell v. Caruso, Case No. 09-CV-11103. As such, the instant action must be dismissed as duplicative. See e.g., Harrington v. Stegall, 2002 WL 373113, *2 (E.D. Mich. Feb. 28, 2002); Davis v. United States Parole Comm'n, 870

F.2d 657, 1989 WL 25837, *1 (6th Cir. March 7, 1989) (district court may dismiss a habeas petition as duplicative of a pending habeas petition when the second petition is essentially the same as the first petition).

Accordingly, this case is DISMISSED.¹ This dismissal is WITHOUT PREJUDICE as to the petition filed in Case No. 09-CV-11103. The Court further directs that the filing fee and the pleadings submitted in the present case be re-filed in Case No. 09-CV-11103. This case is CLOSED.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: April 2, 2009

I hereby certify that a copy of the foregoing document was mailed to Maurice Ferrell 413732, Richard A. Handlon Correctional Facility, 1728 Bluewater Highway, Ionia, MI 48846 and the attorneys of record on this date, April 2, 2009, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160

¹The Court notes that the duplicative filing may have been inadvertent as it is possible that Petitioner's materials became separated during the intake process.